

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

**CHRISTOPHER WARWICK-DRAKE
AND LIANE WARWICK-DRAKE,**

Plaintiffs,

v.

**RICHARD MCDONALD
AND MCEQUINE ENTERPRISE, LLC**

Defendants.

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Civil Action No._____

DEFENDANTS' JOINT NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1332, 1441, and 1446, Richard McDonald and McEquine Enterprise, LLC (collectively “the Defendants”), file this Joint Notice of Removal of the above-captioned case, pending in Grayson County, Texas, 397th District Court as Cause No. CV-13-0970 (“the Lawsuit”). In support of such removal, the Defendants state as follows:

1. The Lawsuit was filed in the 397th District Court of Grayson County on May 15, 2013, as Cause No. DV-13-09702054-a.¹ Defendants were served May 31, 2013.

Removal Based on Diversity Jurisdiction

2. Removal of this action is proper because: (1) there exists a complete diversity of citizenship as between the Plaintiffs and the Defendants, and (2) the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. 28 U.S.C. § 1332(a)(1) and 1441(a).

3. At the time of the Lawsuit’s filing and at the time of the removal of this action, all Defendants were and remain citizens of the State of Texas.

¹ A true and correct copy of the citation and Original Petition with Requests for Disclosure, which comprise all of the papers served upon Defendants, are attached hereto collectively as Exhibit A. Also attached as part of Exhibit A is the registry of actions obtained from the district clerk.

4. At the time of the Lawsuit's filing and at the time of the removal of this action, all Plaintiffs were and remain citizens of a "foreign state," namely England.

5. By attaching a copy of this Notice of Removal to a separate Notice of Removal pleading, the Defendants have provided notice of this removal to the state court.

Amount in Controversy

6. This Court determines whether the Defendants have satisfied the amount in controversy requirement by first asking whether it is "facially apparent" from the state court petition that the claims exceed \$75,000 in value. *See Allen v. R.H. Oil & Gas Co.*, 63 F.3d 1326, 1336 & n. 16 (5th Cir.1995). In this case, the Defendants assert that it is facially apparent from the Petition that the jurisdictional threshold is satisfied because the Plaintiffs seek in excess of \$1,000,000.00 in damages. *See, Original Petition*, p. 3, ¶ 11.

7. As noted above this Notice of Removal is being filed with the 397th Judicial District Court in Grayson County, Texas, and is also being served upon counsel for Plaintiffs pursuant to 28 U.S.C. § 1446(d).

WHEREFORE Defendants Richard McDonald and McEquine Enterprise, LLC hereby remove this action from the 397th Judicial District Court in Grayson County, Texas, to the United States District Court for the Eastern District of Texas, Sherman Division.

June 21, 2013

Respectfully Submitted,

/s/ Amy Ganci

AMY B. GANCI

State Bar No. 07611600

aganci@gancilaw.com

GANCI, LLP

825 Market Street, Suite 220

Allen, Texas 75013

Telephone: (214) 443-6001

Facsimile: (214) 580-7566

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on June 21, 2013, I electronically submitted the foregoing document with the clerk of the court for the U.S. District Court, Northern District of Texas, using the electronic case files system of the court. The electronic case files system sent a “Notice of Electronic Filing” to individuals who have consented in writing to accept this Notice as service of this document by electronic means. All other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by facsimile transmission and first class mail today, June 21, 2013.

/s/ Amy B. Ganci

Amy B. Ganci